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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,616	01/17/2001	James Russell Godwin	5577-219	7872
20792	7590	07/01/2004	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			COULTER, KENNETH R	
PO BOX 37428			ART UNIT	
RALEIGH, NC 27627			PAPER NUMBER	

2141

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/764,616

Applicant(s)

GODWIN ET AL.

Examiner

Kenneth R Coulter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/17/01; 9/24/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 24 – 33 are objected to because of the following informalities:

"distributinges" (claim 24, line 16).

Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 – 33 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 23 of copending Application No. 09/764,613. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the present Application and Application No. 09/764,613 disclose:

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1. A method of providing Internet Protocol Security (IPSec) to a plurality of target hosts in a cluster of data processing systems which communicate with a network through a routing communication protocol stack utilizing a dynamically routable Virtual Internet Protocol Address (DVIPA) for communications from the plurality of target hosts, the method comprising: negotiating security associations (SAs) associated with the DVIPA utilizing an Internet Key Exchange (IKE) component associated with the routing communication protocol stack; distributing information about the negotiated SAs to the target hosts to allow the target hosts to perform IPSec processing of communications to the network utilizing the negotiated SAs; and IPSec processing the communications to the network utilizing the distributed SA information at communication protocol stacks at respective ones of the plurality of target hosts.
2. A method according to claim 1, further comprising the step of storing the distributed information in a shadow SA caches at the target hosts.
3. A method according to claim 2, wherein the step of IPSec processing outbound communications comprises the steps of: locating an SA stored in the shadow SA cache which is associated with the outbound communication; and IPsec processing the outbound communication utilizing the located SA.
4. A method according to claim 3, further comprising sending the processed outbound communication to the network without routing the outbound communication through the routing communication protocol stack.
5. A method according to claim 3, further comprising the step of obtaining an IPSec sequence number associated with the located SA; and wherein the step of IPsec

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processing the outbound communication utilizing the located SA further comprises the step of IPsec processing the outbound communication utilizing the located SA and the obtained IPSec sequence number.

6. A method according to claim 5, wherein the step of obtaining an IPSec sequence number comprises obtaining an IPSec sequence number from a coupling facility.

7. A method according to claim 5, wherein the step of obtaining an IPSec sequence number comprises the step of obtaining IPSec sequence numbers for a plurality of outbound communications from a communication protocol stack at a respective one of the target hosts.

8. A method according to claim 3, further comprising the step of providing an outbound lifeseize count to the routing communication protocol stack.

9. A method according to claim 8, wherein the IKE associated with the routing communication protocol stack refreshes the SAs associated with the DVIPA based on the outbound lifeseize count.

10. A method according to claim 8, wherein the step of providing an outbound lifeseize count comprises the step of sending a cross coupling facility (XCF) message identifying the outbound lifeseize count to the routing communication protocol stack.

11. A method according to claim 10, wherein the step of sending an XCF message identifying the outbound lifeseize count comprises the step of periodically sending a XCF message identifying the outbound lifeseize count for a plurality of IPSec processed communications for a routing communication protocol stack for a respective one of the target hosts.

12. A method according to claim 11, wherein the plurality of IPsec processed communications comprises a percentage of a total lifetime count associated with an SA.

13. A method according to claim 12, further comprising the step of dynamically establishing the percentage of the total lifetime count based on whether the IKE has previously refreshed the SA prior to expiration of a lifetime count threshold associated with the SA.

4. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 14, and 24 are rejected under 35 U.S.C. 102(e) as being disclosed by Dixon et al. (U.S. Pat. No. 6,697,857) (Centralized Deployment of IPSEC Policy Information).

6.1 Regarding claim 1, Dixon discloses a method of providing Internet Protocol Security (IPSec) to a plurality of target hosts in a cluster of data processing systems which communicate with a network through a routing communication protocol stack utilizing a dynamically routable Virtual Internet Protocol Address (DVIPA) for communications from the plurality of target hosts, the method comprising:

negotiating security associations (SAs) associated with the DVIPA utilizing an Internet Key Exchange (IKE) component associated with the routing communication protocol stack (col. 6, lines 8 – 11 “IKE 111 is invoked to negotiate an appropriate security association.”);

distributing information about the negotiated SAs to the target hosts to allow the target hosts to perform IPSec processing of communications to the network utilizing the negotiated SAs (Abstract; Fig. 2; col. 5, lines 42 – 67; col. 6, lines 1 - 17); and

IPSec processing the communications to the network utilizing the distributed SA information at communication protocol stacks at respective ones of the plurality of target hosts (Fig. 2; col. 5, lines 42 – 67; col. 6, lines 1 - 17)

6.2 Per claims 14 and 24, the rejection of claim 1 under 35 USC 102(e) (paragraph 6.1 above) applies fully.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 703 305-8447. The examiner can normally be reached on 5 4 9.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

krc

KENNETH R. COULTER
PRIMARY EXAMINER
